



— State of —
North Dakota
Office of the Governor

CQ635

John Hoeven
Governor

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COMMENTS:



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Horst G. Greczmiel, Director
NEPA Task Force
PO Box 221150
Salt Lake City, UT 84122

Dear Mr. Greczmiel:

We offer the following comments and suggestions relative to NEPA and its administration. These comments are a summary of experiences and observations from natural resource management agencies listed below.

1. **Complexity:** The National Environmental Policy Act established a national policy of evaluating the environment effects, resulting from major federal actions, or the use of federal funds. The policy direction of act is laudable, however, its implementation has resulted in a system, and practice that grinds responsible government action to a snail's pace, and sometimes halting responsible action altogether.

2. **Different standards:** Federal agencies implement NEPA inconsistently, or use different processes and standards. Agencies sometimes refuse to recognize NEPA processes of other federal agencies, leading to conflicts between agencies within the federal system, and usually resulting in delays in decision-making.

Recommendation: We suggest considering at least using the same standards and processes for similar environmental issues, such as surface use evaluations, water quality impacts, air quality impacts, etc.

3. **Major federal action:** We have seen federal agencies require an NEPA analysis, when one seemed unwarranted in view of the negligible environmental impacts appatent to the general public.

Recommendation: A higher threshold of federal funds, and a more precise definition of "major federal action" should be considered, along with clear guidance to federal agencies when an NEPA analysis is required. A mechanism should be developed to utilize the EA more often, rather than an EIS.

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4. Unwieldy delays: One of the greatest complaints of the NEPA process is the interminable delay for decision-making. Some state agencies have described the NEPA process as the "black-hole" into which huge amounts of public time and resources are expended with no apparent end in sight. We have seen delays of eight years, 12 years, and the worst case--18 years for decision-making on different projects by a federal agency. (In each case, a decision has yet to be rendered.) "More study" is often viewed as the excuse for delay and inaction.

Recommendation: We suggest establishing clear, uniform and certain timetables for evaluating and concluding the NEPA process, across all federal agencies.

5. Uncertainty to the process: A common concern is that the process involves too much uncertainty caused by a number of factors, including scoping processes that do not end, conflicts between federal agencies, untimely comments from sister agencies, and ongoing analysis for fear of litigation.

Recommendation:

- Commenting agencies should be required to comment early in the lead agency NEPA process, or else prohibited from commenting at all.
- Specific timeframes for commenting and consultations between federal agencies should be established to conclude the process and provide finality.
- Uniform timetables should also be developed for all agencies dealing with similar subject matters, including scoping, comments, review, appeals, etc.
- Training should also be offered to state and federal officials to fully critique NEPA and implement it in a sound and timely manner.

We look forward to continuing this discussion, and welcome future opportunities to help improve and streamline the NEPA process.

Sincerely,

/s/
Robert W. Harms
Governor's Counsel

/s/
Dave Glatt, Environmental Division Chief
ND Department of Health

/s/
Dean Hildebrand, Director
ND Game and Fish Department

/s/
Dale Frink, State Engineer
State Water Commission

/s/
Doug Prchal, Director
ND Parks and Recreation Department